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C O N F I D E N T I A L SECTION 01 OF 02 BOGOTA 000361

SIPDIS
AMEMBASSY BRASILIA PASS TO AMCONSUL RECIFE
AMEMBASSY OTTAWA PASS TO AMCONSUL QUEBEC
AMEMBASSY BRIDGETOWN PASS TO AMEMBASSY GRENADA

E.O. 12958: DECL: 2020/02/26
TAGS: [PGOV](#) [PREL](#) [PHUM](#) [KJUS](#) [CO](#)
SUBJECT: COURT RULES URIBE THIRD TERM REFERENDUM UNCONSTITUTIONAL

REF: A) BOGOTA 149; B) BOGOTA 245; C) 09 BOGOTA 3347
D) 09 BOGOTA 3145

CLASSIFIED BY: Brian A. Nichols, DCM; REASON: 1.4(B), (D)

11. (SBU) Summary: Colombia's Constitutional Court ruled February 26 that the constitutional amendment process to allow President Alvaro Uribe to run for an unprecedented (and controversial) third term could not legally go forward. The Court -- reportedly by a 7-2 vote -- specifically cited flawed actions in how the referendum was requested by the public and approved by the Congress. Uribe loyalist and U Party President Juan Manuel Santos now becomes the frontrunner in the May 30 election. However, the prior lack of popular attention to a race that Uribe heretofore overshadowed makes shifts in electoral fortunes very possible. End Summary.

12. (C) The nearly three-year presidential reelection referendum rollercoaster ride is finally finished, with the Constitutional Court's ruling on February 26 that the process whereby the referendum was requested by the public and approved by the Congress was critically flawed (see reasons in ref A). Media reports that the vote was 7-2, with only Court President Mauricio Gonzalez and Judge Jorge Pretelt voting in favor of the referendum. The Court reportedly also ruled 5-4 against the referendum on substance, stating that the public can reform the Constitution but not substitute it. These rulings, at the end of seven marathon Court sessions, close the door on the possibility that President Alvaro Uribe could run for a third consecutive term in the May 30, 2010 presidential election. Though the ruling focused on process, observers believe judges had the integrity of the Constitution and its checks and balances (designed for a single four-year presidency) in mind when voting to prevent putting the matter before the public.

13. (C) With Uribe now set to leave the Casa de Narino presidential palace on August 7, the focus shifts to the candidacy of U Party president and Uribe's former defense minister Juan Manuel Santos (ref B). Santos leads in polls, but many Uribe supporters will not automatically support Santos, who unlike Uribe, comes from the Bogota elite. At this point, it appears unlikely that any of the expected dozen-or-so candidates will win sufficient votes in the May 30 presidential election to avoid a second round runoff on June 20, so several candidates have a real shot at the presidency, depending on what alliances are formed after the two winners of the first round are known. Although leftist Alternative Democratic Pole (PDA) candidate Gustavo Petro has a slim chance of making the second round, polls indicate he has no chance of becoming president. Those with the best shot at going all the way (ref C)

are Santos, the Conservative Party (PC) candidate (Noemi Sanin leads the scandal-ridden Andres Felipe Arias in the polls for the March 14 PC primary), independent former mayor of Medellin Sergio Fajardo (who should be able to draw some of Uribe's Medellin voters), and Liberal Party (PL) candidate Rafael Pardo (also a former defense minister and senator).

14. (C) The sans-Uribe political landscape will also influence the March 14 legislative elections, where Colombians will elect all 102 senators and 166 representatives. Even without Uribe, the U Party -- seen as both strong on security and attuned to the social needs of rural and poor Colombians -- is projected to improve on its current first place 27% share of seats. The PC is projected to edge out its historic rival PL for second (PL currently has 22%, PC 21%), but the ruling coalition depends on whether the U-PC alliance holds -- if Arias wins the PC primary the alliance should hold, but if Sanin wins, the alliance is an open question. Santos and the U Party have strong PL ties that could be cemented, leaving the PC in the minority. The next tier includes the PDA (7% in current Congress, could join a PL-led government), Radical Change (CR, 11% currently but could drop, could join with U, PC or PL), and the new National Integration Party (PIN), which is a reincarnation of smaller pro-Uribe parties. The Christian values-based MIRA party has waged a professional campaign that should significantly increase its current standing (2 Senate and 1 House seats).

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Fajardo's Citizen Commitment movement is only projected to win a handful of Senate seats, which leaders of other parties hope will doom his presidential bid.

COMMENT: INSTITUTIONALITY & URIBE'S LEGACY ARE WINNERS

15. (C) The shroud of uncertainty that enveloped politics and suppressed campaigns and debates has finally been lifted. More candidates will now show up to debates, and more of the public will pay attention to their platforms. However, voters in both the congressional and presidential elections are expected to base their decisions largely on whether candidates support continuing Uribe's policies (especially Democratic Security) or propose a new path. President Uribe is unlikely to fade away as a lame duck. We expect him to continue to actively seek reforms, pursue leaders of guerrilla groups and narco-trafficking organizations, and remain engaged on international affairs (especially vis-a-vis Venezuela, Ecuador, and the United States). We also expect him to spend much time with the public and media describing his accomplishments in order to cement his legacy as the most popular and effective president in Colombian history.

16. (C) Many governments shared USG concerns with a third Uribe term, so the Court decision should help strengthen Colombia's foreign relations and donors' willingness to help here. In the end, the biggest winners are democratic institutions and checks and balances (ref D). Colombia was spared from the slippery path of perpetuating leaders in power that plagues other Latin American nations. However, the Court's decision will likely not address the effects of Colombia's political system having shifted to a two-term cycle rather than the pre-Uribe period of no reelection. Whether some constitutional adjustments may be necessary to accommodate this development remains an open question. End Comment.

Brownfield